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10/726,040	12/02/2003	Glenn Butler	LS-004	2671
31647	7590	05/16/2006		
DUGAN & DUGAN, P.C. 55 SOUTH BROADWAY TARRYTOWN, NY 10591			EXAMINER JOHNSON III, HENRY M	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

3739

Part of Paper No./Mail Date 20060512

Response to Arguments

Applicant's arguments filed 4/4/2006 have been fully considered but they are not persuasive. Korman et al. teach the light source may be a laser and clearly indicates it may be used with a hyperbaric chamber. The light source would have to be either within or outside of the chamber.

Specification

The patent number (7,001,413) must be added to the first paragraph for prior application 10/613,608.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication US 2002/0173833 to Korman et al. Korman et al. teaches the use of photodynamic therapy in conjunction with hyperbaric oxygen therapy (paragraph 0063), thus making a hyperbaric chamber implicit. The light would have to be within or outside of any chamber, however, it is interpreted as being outside due to the structure of the device being considered too large for an internal configuration. The photodynamic therapy unit may include an array of LEDs (Fig. 4) disclosed as operating in the violet/blue range (400-495 nanometers)

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and may include a focusing lens (Fig. 2a, # 122). The light sources disclosed include gas discharge lamps (paragraph 0099) and various lasers including laser diodes and krypton gas lasers (paragraph 0030). The device includes a computer controlled display unit for displaying the imaged illumination treated area, wherein counting is carried out by an operator marking lesions on the display of the illumination treated imaged surface area. Alternatively, the computer lesions counting by image processing techniques to detect and count each lesion in the illumination treated imaged surface area. The score of the computer lesion counting is recorded in a computer memory to enable monitoring the lesion healing process through a series of consecutive treatments (paragraph 0026). The image also may provide X-Y positional (targeting) information. The camera control is integral with the light controls (paragraph 0120). The method of use is inherent. The light, to perform photodynamic therapy must be positioned and turned on and must have a power supply. Turning on the light inherently selects a wavelength. A hyperbaric chamber by definition must be filled with pressurized gas.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US 2002/0173833 to Korman et al. as applied to claim 1 above and further in view of U.S. Patent 5,582,574 to Cramer. Korman et al. are discussed above. Cramer teaches a hyperbaric incubation chamber with a transparent (Col. 5, line 55) enclosure and a control panel to control the gas pressure and other environmental factors (Col. 7, lines 37-

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39). Controls are provided for both systems making them capable of being controlled sequentially or simultaneously. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hyperbaric chamber as taught by Cramer in the invention Korman et al. as Korman et al. teaches use of the invention in conjunction with hyperbaric treatment.

Claims 16, 17 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US 2002/0173833 to Korman et al. in view of U.S. Patent 5,582,574 to Cramer. Korman et al. are discussed above. Cramer teaches a hyperbaric incubation chamber with a transparent (Col. 5, line 55) enclosure and a control panel to control the gas pressure and other environmental factors (Col. 7, lines 37-39). Controls are provided for both systems making them capable of being controlled sequentially or simultaneously. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hyperbaric chamber as taught by Cramer in the invention Korman et al. as Korman et al. teaches use of the invention in conjunction with hyperbaric treatment.

Allowable Subject Matter

Claims 6-12, 14-20 and 25-29 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

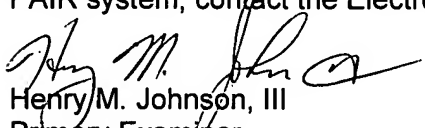
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Henry M. Johnson, III
Primary Examiner
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